

FEDERAL BUREAU OF INVESTIGATION

Form No. 1

THIS CASE ORIGINATED AT

HOUSTON

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FILE NO. 120-83

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TITLE CHANGED: COLLIS P. SUDERMAN; TEXAS EMPLOYERS' INSURANCE ASSOCIATION -vs- UNITED STATES, Civil Action No. 676, U. S. District Court, Southern District of Texas.			CHARACTER OF CASE FEDERAL TORT CLAIMS ACT
<p>SYNOPSIS OF FACTS: On 5/4/50 in consolidated suit on sole issue of liability Government was determined negligent. Appeal pending in US CCA. Plaintiff employed by Suderman Stevedoring Company and was in Explosion area at time of Explosion. Plaintiff lost left leg and received numerous lacerations as result of Explosion. Signed statement obtained placing Plaintiff at scene of Explosion [REDACTED]</p> <p>[REDACTED] Plaintiff is veteran of World War II. Born 5/19/01.</p> <p style="text-align: center;">-P-</p> <p>DETAILS: The title of this case is being marked changed to reflect the addition of Texas Employers' Insurance Association, which company filed an amendment to the Plaintiffs' petition herein on April 24, 1950.</p> <p>This investigation is predicated upon receipt of Departmental memorandum dated May 18, 1950, requesting that the Federal Bureau of Investigation undertake the investigation of claims arising out of the Texas City Disaster of April 16-17, 1947, to establish the validity of the claims and to collect sufficient information upon which to base a determination of the amount of damages sustained by each claimant.</p>			
APPROVED AND FORWARDED: <i>A. F. [Signature]</i>		SPECIAL AGENT IN CHARGE	
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COURT ACTION

On April 1, 1948, Civil Action No. 676 was filed in the United States District Court, Southern District of Texas, against the United States, in behalf of Plaintiffs, for damages in the amount of \$214,240.00, for personal injuries allegedly sustained by Plaintiff COLLIS P. SUDERMAN in the Texas City Disaster of April 16-17, 1947. Plaintiff SUDERMAN is represented by the law firm of Levy & Levy, Galveston, Texas.

By order of the Honorable T. M. KENNERLY, Judge, U. S. District Court, Southern District of Texas, on July 21, 1948, this suit was consolidated with other suits filed as a result of the Texas City Explosion, to be tried on the matter of determining whether the Government was liable for damages incurred as a result of such Explosion.

Following trial to determine the matter of liability, on May 4, 1950, Judge KENNERLY entered his formal judgment, in which he found the Government liable. Notice of appeal from the decision of the U. S. District Court was given by Government counsel, and as of the date of the preparation of this report the appeal is being perfected to be argued before the U. S. Circuit Court of Appeals, Fifth Circuit, New Orleans, Louisiana, during 1951.

DAMAGES

The original petition in Civil Action No. 676 was reviewed in the office of the U. S. District Clerk, Galveston, Texas, and it is reflected that this Plaintiff, COLLIS P. SUDERMAN, received fractures of both legs, ruptured ear drums, injury to his right eye, and numerous lacerations about the body, such injuries allegedly having occurred in the Texas City Explosion. As a result, Plaintiff SUDERMAN lost his left leg. He was confined to the hospital from April 16, 1947, to July 11, 1947.

In this original petition Plaintiff SUDERMAN sues for \$7,000.00 for reasonable medical and hospital expenses incurred, and for \$10,000.00 for additional or expected medical and hospital expenses that will be incurred; for \$50,000.00 for mental anguish endured and for mental anguish to be endured; and for loss of earnings of \$147,240.00, on the assumption that he was earning \$6,000.00 annually, and had a life expectancy of 24.54 years, making the total for which Plaintiff SUDERMAN is suing \$214,240.00.

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On April 24, 1950, the Texas Employers' Insurance Association filed a petition in intervention, suing for \$8,020.00 in compensation benefits and \$8,970.00 for reasonable medical expenses rendered by the Texas Employers' Insurance Association, who assumed a legal liability to pay same, making a total of \$16,990.00.

The files of the U. S. District Clerk, Galveston, were again reviewed on June 13, 1951, and as of that date no further amendments had been filed affecting this particular claim.

Mr. ADRIAN LEVY, Jr., of the law firm Levy & Levy, 1009 U. S. National Bank Building, Galveston, Texas, was contacted, and advised that the Plaintiff COLLIS PETER SUDERMAN was born May 19, 1901, at Galveston, Texas, and was employed as an outside superintendent for the A. D. Suderman Stevedoring Company at an approximate annual salary of \$6,000.00.

Mr. LEVY stated that the Plaintiff had been married twice, his first wife having been PEARL MALLOY, whom he married in 1921, and who later died. There were two children born to this marriage, COLLIS SUDERMAN, Jr., born February 4, 1927, and PATRICIA PEARL SUDERMAN, born March 26, 1925. PATRICIA PEARL is presently married to CECIL R. DICKERSON, and is residing in Silver City, New Mexico.

On November 22, 1942, the Plaintiff married JIMMIE CHANDLER SUDERMAN in New Orleans, Louisiana. [REDACTED]

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Mr. LEVY stated that the Plaintiff was in the United States Army during World War II.

Mr. LEVY stated that the Texas Employers' Insurance Association had intervened in instant suit, and was seeking \$16,990.00. Mr. LEVY stated also that the total amount of the suit brought is \$214,240.00, which is broken down as \$17,000.00 for medical expenses, \$50,000.00 for pain and suffering, and \$147,240.00 for loss of earnings.

Mr. LEVY advised that as a result of the Explosion the Plaintiff received a compound comminuted fracture of the distal one-third of the left tibia and fibula; a simple fracture of the proximal one-third of the left and right fibula; a simple fracture of the lower third of the right femur, and Plaintiff's right thigh at the site of said fracture was badly crushed and

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almost amputated; a severe wound on the right thigh, in the area of the fracture of the right femur extending down to the extensor muscle; a fracture of the right tibia at the knee; his left leg was crushed from above the knee down to the ankle with almost a traumatic amputation thereof; a perforation of the right ear drum, which has resulted in a fifty per cent loss of hearing in the right ear; the cornea of the right eye was abraded, from which a twitching has resulted; and multiple abrasions and contusions.

Plaintiff's left leg was placed in a plaster cast, and he received plasma and several blood transfusions. In spite of all preventive measures, the left leg became gangrenous below the knee, with a wet type of gangrene, which began spreading upward. This necessitated amputation, which was performed at the junction of the medial and lower third of the left femur. Subsequently, a revision of the stump was done, and about one and one-half inches more of the left femur were amputated. Plaintiff's right leg was put in a skeletal traction, and at the fracture site the right femur an area of skin three inches in diameter became macerated and sloughed out. Plaintiff was in the hospital undergoing treatment and operation from April 16, 1947, to July 11, 1947.

At the time of the filing of this complaint the stump of the Plaintiff's left leg has completely healed; however, there is a painful scar posteriorly, and this may require removing at a later date. The abraded and macerated skin at the fracture site of the right femur, which had sloughed out, has almost healed.

Plaintiff is confined either to bed or a wheel chair, with a leg brace for his right leg, and is not yet able to bear weight on his right leg. As a result of said injuries, Plaintiff has suffered, and is suffering, excruciating pain of body and anguish of mind, and will continue to so suffer for an indeterminate period in the future.

Mr. LEVY had obtained copies of the medical record of the Plaintiff from the St. Mary's Infirmary, Galveston, Texas, and permitted reporting agent to photograph same.

These records reflect that the Plaintiff was admitted to the St. Mary's Infirmary on April 16, 1947, and that he was discharged on July 11, 1947, by ambulance, and at that time his condition was stated to be good.

Progress Report dated May 10, 1947, reflected Plaintiff received an examination of his eyes, ears, nose and throat by Dr. M. ROBINSON of Houston. At such time two large pieces of impaction were removed from his left ear with

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difficulty. Some trauma was still evident in the right ear. Eyes, nose and throat were found negative. The Progress Report also reflects that on April 29, 1947, the Plaintiff's left leg was amputated. The Operative Record reflects the reason for the amputation of the left leg was a gangrene infection.

Also appearing in the copies of the St. Mary's Infirmary records are X-ray reports reflecting the fractures as given by the Plaintiff's attorney at the time of interview with him.

Mr. LEVY has contained in his file a letter from Dr. G. S. SYKES, Galveston, Texas, dated March 11, 1948, in which letter Dr. SYKES indicates that as a result of the Explosion the Plaintiff has lost fifty per cent of his hearing in his right ear.

In letter dated October 8, 1947, to Texas Employers' Insurance Association, Dr. W. J. JINKINS reports on Plaintiff's condition, stating that at that time the stump of Plaintiff's left leg has completely healed, and that the fracture of the right femur is healing satisfactorily. Dr. JINKINS stated that the Plaintiff was at that time in a wheel chair with a leg brace, but was not bearing weight on the right leg as yet. Dr. JINKINS stated that "There is considerable muscle atrophy of the right quadriceps with fibrous tissue replacements at the point of injury of his right thigh." The letter concluded by stating that the Plaintiff should reach his maximum improvement within the next three months.

There is also a letter of Dr. JINKINS dated July 14, 1947, which gives the background of the Plaintiff's condition, and states that the doctor is referring Plaintiff to Dr. G. W. N. EGGERS for treatment.

The above photographs of copies of the St. Mary's Infirmary records are being forwarded to the U. S. Attorney, Houston, as an enclosure with this report.

Mr. A. D. SUDERMAN, of the Suderman Stevedoring Company, Galveston, Texas, advised that he owns and operates the firm known as Suderman Stevedoring, Inc., and the A. D. Suderman Stevedoring Company. Mr. SUDERMAN stated that the Plaintiff COLLIS P. SUDERMAN is his brother, and that he was employed by the company as an outside superintendent. He stated that his duties would require COLLIS P. SUDERMAN to travel in various gulf port cities and supervise the loading and unloading of ships.

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Mr. A. D. SUDERMAN stated that this entailed Plaintiff's being active on and about the wharf and aboard the ships. He stated that as a result of the Explosion the Plaintiff was unable to work for about one year, but that he retained the Plaintiff on the payroll. He stated, however, that when the Plaintiff was able to return to work he was not able to perform the duties that he previously fulfilled, as a result of which it was necessary to hire an assistant outside superintendent. Mr. SUDERMAN stated that if it were anyone other than his brother, he would probably have dismissed Plaintiff from his employ.

Mr. A. D. SUDERMAN stated that the Plaintiff has a great deal of difficulty in moving about, and that the leg that was saved gives the Plaintiff considerable trouble, and he is unable to bear any weight upon his remaining leg. Mr. SUDERMAN stated that he believes the Plaintiff would have a great deal of difficulty in obtaining any employment, as he was fitted for stevedoring work, and is now not physically capable of fulfilling the type of job for which he was qualified.

Mr. A. D. SUDERMAN stated that he did not wish to give a signed statement without conferring with his attorney.

Special Agent DOYCE E. COCHRAN photographed Industrial Accident Board records at Austin, Texas. Employer's First Report of Injury reflects that C. P. SUDERMAN, SR., was employed by the A. D. Suderman Stevedoring Company the morning of April 16, 1947, and that as a result of the Texas City Explosion, both his legs were fractured, he received broken ribs, cuts and bruises, and later his left leg was amputated above the knee. Plaintiff received treatment from Dr. J. L. JINKINS, and Dr. G. W. N. EGGERS, of Galveston, Texas, and was confined in the St. Mary's Infirmary. An affidavit contained in the records supporting the claim reflects that C. P. SUDERMAN, SR., resides at 3910 R₂ Street, Galveston, Texas, and was earning \$410.00 per month, working a seven-day week and a twelve-hour day. It reflected that the Plaintiff was injured on April 16, 1947.

On May 23, 1948, the Industrial Accident Board set forth a decision that the Texas Employers' Insurance Association is to pay C. P. SUDERMAN, SR., \$20.00 per week, for 401 consecutive weeks, from April 16, 1947, for permanent total incapacity.

There also appears in the Industrial Accident Board records a statement of Dr. JINKINS who advises that the Plaintiff would be ninety per cent disabled and would be totally incapacitated for a period of fifty weeks, which was a result of the Texas City Explosion on April 16, 1947.

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The above photorecords are being furnished to the U. S. Attorney as an enclosure with this report.

Mr. GARRETT BUSH, Lamarque, Texas, was contacted, and he advised that he had been working in the area prior to the Explosion, and that he was well acquainted with the Plaintiff. Mr. BUSH furnished the following signed statement:

"Lamarque, Texas
May 19, 1951

"I, GARRETT BUSH, make the following voluntary statement to FRANK BALES who has identified himself as a Special Agent of the Federal Bureau of Investigation.

"I reside at Lamarque, Texas and on the morning of the explosion I was working aboard the Wilson B. Keene. I saw COLLIS PETER SUDERMAN that morning, April 16, 1947, on the docks at about 7:50 A. M. After the explosion on the same day at about 10:15 or 10:30 A. M. I again saw "Pete" Suderman on the docks and at that time he was in an injured condition as a result of the explosion.

"I have read this statement and find it true.

/s/ Mr. GARRETT BUSH

Witnessed
/s/ FRANK BALES -
Special Agent FBI Houston"

The original of the above statement is being retained in the Houston Office.

EMPLOYMENT AND EARNINGS

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Mr. HARRY DAY, Office Manager, A. D. Suderman Stevedoring Company, Galveston, Texas, advised that COLLIS P. SUDERMAN resides at 3910 Q Avenue, Galveston, Texas, and had Social Security Number 453-01-0221. Mr. DAY stated that the A. D. Suderman Stevedoring Company and the Suderman Stevedores, Inc., were owned and operated by the same individuals, but that they performed in two different companies, and that two different sets of books were kept.

Mr. DAY advised that the Plaintiff was employed as an outside superintendent, and that for the year 1945 the Plaintiff earned \$2,602.00, in 1946 he earned \$4,920.00, and in 1947, 1948 and 1949 the Plaintiff was on straight salary of \$410.00 per month. In 1950 the Plaintiff received \$550.00 per month.

Mr. DAY also advised that it was not uncommon for the Plaintiff to occasionally receive a bonus or bonuses ranging from \$300.00 to \$500.00.

Mr. DAY stated that the Plaintiff, who is a brother of the owner, A. D. SUDERMAN, is being retained probably because of the family relationship, as at the present time the Plaintiff cannot perform the work that is required of an outside superintendent.

MISCELLANEOUS

An investigation was conducted in 1948, and COLLIS P. SUDERMAN was interviewed concerning the Explosion which occurred on April 16, 1947, by Special Agents H. HILTON McKEE and JULIAN A. MARTIN. In this interview Mr. SUDERMAN described the normal procedure of loading the fertilizer aboard the ship, and of the action that occurred when the fire started. During this interview SUDERMAN stated that he was standing beside Mr. FAGG, who was

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walking foreman of the Suderman employees. He advised that as a result of the Explosion he received a shattered left leg, resulting in amputation above the knee, a badly damaged right leg, including almost complete severance of the leg above the knee and having the bone broken, as well as injuries to the right foot, injuries to the right ear in the form of perforation of the ear drum, and other cuts over the face and body. It was noted by the interviewing agents at the time of the interview that the Plaintiff was unable to walk, even with crutches.

This interview took place on March 26, 1948.

Enclosures for the U. S. Attorney, Houston:

1. Photographic copy of records of the Industrial Accident Board.
2. Photographic copy of St. Mary's Infirmary records.
3.

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- PENDING -

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LEADS

HOUSTON

AT HOUSTON, TEXAS:

If and when received, will report information contained in Veterans' Administration files concerning COLLIS P. SUDERMAN.

Will, if and when received, report medical expenses of Plaintiff as reflected by information contained in files of the Texas Employers' Insurance Association.

AT TEXAS CITY, TEXAS:

Will contact Mr. JAMES FAGG and obtain information concerning the Plaintiff at the time of the Explosion of April 16, 1947. FAGG reportedly was talking to the Plaintiff shortly before the Explosion.

AT GALVESTON, TEXAS:

Will follow and report final adjudication of this case.

REFERENCE:

Report of Special Agent WILLARD BOONE, 6/24/48,
at Houston.
Bureau letter dated May 26, 1950, transmitting
Departmental memorandum dated May 18, 1950.